

THIS DISPOSITION IS NOT
CITABLE AS PRECEDENT OF THE TTAB FEB. 29,00

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Southwest Student Services Corporation

Serial No. 74/582,574

Request for Reconsideration

Thomas E. Spath of Abelman, Frayne & Schwab for Southwest Student Services Corporation.

Angela Lykos, Trademark Examining Attorney, Law Office 102
(Thomas V. Shaw, Managing Attorney).

Before Hohein, Hairston and Wendel, Administrative Trademark Judges.

Opinion by Hohein, Administrative Trademark Judge:

Applicant, following a series of approved requests for extensions of time, filed a timely request on December 16, 1999 for reconsideration of our August 20, 1999 decision affirming the refusal to register, under Section 2(e)(1) of the Trademark Act, 15 U.S.C. §1052(e)(1), of the term "COLLEGE CARD" as being generic for "financial services, namely providing to students enrolled at participating institutions of post-secondary education a low-cost line of credit accessed by a transaction card for payment of

education-related expenses to the institution and to participating merchants affiliated with the institution".¹

In particular, applicant asserts that it was "error to base a finding that ... applicant's mark is generic on evidence derived from highly specialized trade journals that are not in common circulation among members of the relevant segment of the consuming public that are applicant's customers". Applicant's assertion, which in essence is nothing more than a rehash of the contention previously made in its appeal and reply briefs, glaringly overlooks the fact that our decision was based upon "careful consideration of the entire record". Specifically, not only did we properly consider, in view of the niche market for applicant's services, certain excerpts taken from articles in "trade publications which would be read by persons interested in credit card financing," but we also predicated our finding of genericness on excerpts, which would be read by actual and prospective college students and their parents, retrieved from stories appearing in newspapers circulated among members of the general public and statements set forth in applicant's own advertising literature.

We remain convinced, in light thereof, that the record plainly demonstrates that credit card services related to the educational expenses of students at institutions of higher learning are commonly known as college card services to both those in the trade for such services and to actual or prospective

¹ Ser. No. 74/582,574, filed on October 5, 1994, which alleges dates of first use of September 30, 1987.

customers therefor, including college students and their parents. Accordingly, because applicant's assertion is not persuasive that our August 20, 1999 decision was erroneous, applicant's request for reconsideration is denied.²

G. D. Hohein

P. T. Hairston

H. R. Wendel
Administrative Trademark Judges,
Trademark Trial and Appeal Board

² Claiming that "[a]n informal survey conducted by applicant after the Board's adverse decision ... indicates that the college and university financial aid offices that constitute one important segment of applicant's customer do not receive or circulate ... [certain] trade publications," applicant additionally requests that if "the Board in its reconsideration ... [should] decide not to reverse the refusal, that it remand the case to the Examining Attorney for the purpose of supplementing the record with further evidence on the reliability of the evidence from the trade journals in question." Aside from the fact that it is obvious that applicant's claimed "survey" could have been performed and made of record anytime prior to the appeal in this case, and thus it can scarcely be considered as being newly obtained evidence, Trademark Rule 2.142(g) specifically provides that "[a]n application which has been considered and decided on appeal will not be reopened except for the entry of a disclaimer under §6 of the [Trademark] Act of 1946 or upon order of the Commissioner". In view thereof, the request for remand is denied.